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REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 31, 33, 35-47, 52-56, 59-61, 63, and 67-78 are pending.

Claims 31 and 33 are amended to include the scheduling feature formerly included in claim 34, which is cancelled.

Applicants cannot agree with the allegation in the Office Action that Boyle et al. (U.S. 6,665,711) discloses the scheduling feature. The Office Action cites column 2, lines 15-61, and column 7, lines 44-55, and FIG. 8 as evidence Boyle includes the scheduling feature. However, there is no mention in this portion of Boyle of any scheduling feature, much less the scheduling features broadly described in claims 31 and 33 and specifically described in claims 35-37. In fact, column 2, lines 53-57, implies there is no scheduling in Boyle. Rather, this portion of Boyle indicates the targeted client device is caused to send a request to establish a communication session with a pull engine *upon receiving a corresponding message*. When the client device is authenticated by a link device, the communication session is established, and updated information is fetched into the link device. In other words, Boyle's messages are not transmitted based on a schedule, but in response to signals being received.

If relying on inherency, it is again respectfully noted that the Examiner has the burden of proving that Boyle includes

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the scheduling feature. As previously discussed, the fact that a certain result or characteristic *may* occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981).

To establish inherency, extrinsic evidence must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference and that it would be so recognized by persons of ordinary skill in the art. Inherency may not be established by possibilities or probabilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. *In re Roberston*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999).

In relying upon a theory of inherency, the Examiner must provide a basis in fact or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (B.P.A.I. 1990). It has not been shown by rationale or evidence that Boyle discloses the presently claimed scheduling features.

The Office Action incorrectly alleges that Boyle discloses the claim 39 feature of a second link that includes a wide band, short-range wireless network. While the Office Action relies on element 102 of FIG. 1 for such a disclosure, there is no

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indication that carrier network 102 is a short-range broadband device. Carrier network 102 is, for example, a cellular telephone network. It is well known that cellular telephone networks cannot be considered wideband, short-range networks. However, to emphasize the point, claim 39 is amended to indicate that the second link includes a wireless network having a wide band and short range compared to the bandwidth and range of the first link.

Claim 48 is rewritten as claim 77 and defines features that do not appear to be disclosed by Boyle. In particular, claim 77 requires a user of the mobile device to be provided with an indication of at least one of the different locations of short-range channels. The mobile device is caused to be close enough to one of the provided locations to receive a message via the channel associated with the location. The data is transferred to the mobile device of the second network via the channel associated with the location.

New claim 78 is similar to claim 49 and indicates the mobile device is provided with an indication of the location by the wireless communication via the first link.

Amended claim 53 clearly distinguishes over Boyle. In particular, the mobile device and first transmitter of a first narrow bandwidth long-range signal are arranged for selectively causing the first transmitter to transmit data via the first

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Respectfully submitted,
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